

State of Montana
Office of the Legislative Auditor
Sunset Performance Audit
DEPARTMENT OF COMMERCE
BOARD OF DENTURITRY

Chapter 548, Laws of Montana, 1985, requires a sunset review of the board. This review provides information to assist the Legislature in making the decision to terminate, modify, or continue the board.

This report presents several areas for legislative consideration including:

- The fiscal viability of board operations including the number of licensees.
- Concerns with the examination process for administering X-rays.
- Requirements needed to complete partial dentures.



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PERFORMANCE AUDITS

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SUNSET PERFORMANCE REVIEW

BOARD OF DENTURITRY
DEPARTMENT OF COMMERCE

December 1986

Report Number 86P-48

Members of the audit staff involved in this audit were: Jim Nelson, supervisor; and Angie Grove, staff auditor. Additional information on the audit can be obtained by contacting the Office of the Legislative Auditor (406) 444-3122.

STATE OF MONTANA

Office of the Legislative Auditor



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December 1986

The Legislative Audit Committee
of the Montana Legislature:

This is our sunset performance review of the Board of Denturistry. The 1985 Legislature passed Chapter 548 which asks the Legislative Audit Committee to determine if the Board of Denturistry has licensed 30 denturists by October 1, 1986, or if the Board has established fiscal viability. This chapter also requires operations of the board be reviewed under criteria of the Sunset Law. There are no formal recommendations in the report since the responsibility for such recommendations lies with the Audit Committee.

Since 30 denturists were not licensed as required, the Legislative Audit Committee must introduce a bill to the 50th Legislature to merge the Board of Denturistry with the Board of Dentistry. In addition, the Legislative Audit Committee can introduce a bill based on the sunset provisions which provide for continuing, modifying, or terminating the Board of Denturistry.

We wish to express our appreciation to the members of the Board and to the staff of the department for their assistance during the review.

Respectfully submitted,

A handwritten signature in dark ink, appearing to read "Scott A. Seacat", with a long, sweeping horizontal line extending to the right.
Scott A. Seacat
Legislative Auditor

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APPOINTIVE AND ADMINISTRATIVE OFFICIALS

BOARD OF DENTURITRY

		<u>TERM EXPIRES</u>
Brent Kandarian President	Kalispell	1-11-87
Lee Wiser Secretary/Treasurer	Livingston	1-11-88
Gayle Roset, D.D.S.	Billings	1-11-89
Henry Siderius (Senior Citizen)	Kalispell	1-11-88
Elsie Fox (Low Income)	Miles City	1-11-87

DEPARTMENT OF COMMERCE

Keith Colbo, Director

Shirley Miller, Bureau Chief

Mary Lou Garret, Administrative Assistant

CHAPTER I

INTRODUCTION

This sunset review addresses state regulation of denturists by the Board of Denturitry -- a state board administratively attached to the Department of Commerce. The department provides support to the board in the form of secretarial, legal, budgeting, and accounting services.

REPORT OBJECTIVES

The 1985 Legislature passed Chapter 548 which requires a sunset review of the Board of Denturitry be performed by the Legislative Audit Committee. The Committee is to determine if the Board of Denturitry has licensed 30 denturists who are practicing in the state by October 1, 1986, or if the Board has established fiscal viability. If either of these situations does not exist, the law mandates that the Committee prepare a bill for the 50th Legislature to merge the Board of Denturitry with the Board of Dentistry. Chapter 548 also requires operations of the Board be reviewed under criteria of sections 2-8-112 and 2-8-113, MCA (the Sunset Law).

The sunset process addresses the following questions:

- a) Is there a duplication of effort between the Board of Denturitry and other agencies or programs?
- b) Do procedures followed by the Board of Denturitry adequately ensure the public health, safety, and welfare?
- c) Is fiscal viability of the Board of Denturitry strong enough to ensure continued operations?
- d) Is the board in compliance with state laws and rules?

We did not specifically examine the need for the Board. Under the Sunset Law, the Legislative Audit Committee has the option of introducing a bill which could provide for continuing, modifying, or terminating the Board.

MANAGEMENT MEMORANDUM

During the audit, we issued a management memorandum to the Department of Commerce. The memorandum addressed issues which are not included in the audit report. These issues are related to documentation of examinations and documentation of continuing education courses.

DENTURITRY PROFESSION

Denturistry is a profession described as making, fitting, altering, or repairing a denture and furnishing the denture directly to a person. In the past, this service was generally provided in part by a dentist and in part by a dental laboratory. The dentist dealt directly with the person requiring the service, while the dental laboratory technician constructed the denture. The dentist did impressions and actually fitted the denture.

Currently, denturistry allows denturists to perform many of the steps of the service. Consequently, denturists can provide their service directly to the public.

CHAPTER II

BOARD OF DENTURITRY

This chapter describes the Board of Denturitry and its operations. Comparisons with other states and the Board of Dentistry are also included to provide criteria to measure the Board's activities.

BOARD MEMBERSHIP AND GOALS

A Board of Denturitry was appointed by the Governor in January, 1985. The Board has five members. Membership includes two licensed denturists, one licensed dentist, and two public members. Board members serve three-year terms and perform several statutory duties, including:

1. determine applicants' qualifications for licensure;
2. administer examinations for licensure;
3. collect fees and charges;
4. issue, suspend, and revoke licenses; and
5. adopt, amend, and repeal rules necessary for implementation, continuation, and enforcement of applicable laws.

In order to meet its goal of providing freedom in choice of denture services to the public by granting licenses to only those qualified candidates, the Board established the following objectives:

- assure the public that denture services are performed by licensed denturists;
- investigate complaints received;
- proctor examinations;
- issue licenses to qualified candidates; and
- monitor continuing education programs for licensees.

LICENSING REQUIREMENTS AND SERVICES ALLOWED

In order to become licensed as a denturist in the state of Montana, certain statutory requirements have to be met. These requirements included initial applicant provisions and eligibility criteria.

The initial license provision allowed applicants with three signed affidavits verifying 5 years of experience in denture technology, documentation of approved courses, and six months of residency in Montana prior to April 1, 1985, to become licensed. After the April deadline applicants were required to have at least two years of formal training, and two years of internship under a licensed denturist or three years licensed experience in another state or Canada. Formal training must be offered by an educational institution accredited by a national or regional accrediting agency approved by the Montana Board of Regents. Montana law also allows licensing by reciprocity agreements with other states. To date, there have been no licenses granted through reciprocity.

Since creation in January, 1985, the Board of Denturistry has licensed 18 denturists. This includes 12 licensees who were initially licensed. Of the 18, twelve licensees reside and practice within the state of Montana.

As outlined in the law, services to be performed by denturists are primarily making and repairing of dentures. The restrictions on these services occur in several areas, such as immediate dentures, X-rays, and partial dentures. Immediate dentures, those dentures constructed prior to extraction of teeth and requiring immediate insertion, can only be inserted by a dentist. This is because a denturist is not allowed to extract teeth. A denturist is prohibited by law from taking X-rays unless he takes a test from the Board of Dentistry. Finally, there are restrictions on constructing partial dentures which require patients to be referred to a dentist for mouth preparation, teeth cleaning, and X-rays, as needed. (Further information on the latter two restrictions is outlined in the Fourth chapter of this report.)

FEES

In order to support the cost of an administering board, the board must establish fees associated with the licensing process. The Board of Denturitry has authority to set fees and has established the following charges:

-- Application for licensure	\$ 200
-- Original license	\$ 200
-- Annual renewal	\$ 500
-- Examination or reexamination	\$ 200
-- Replacement or duplicate license	\$ 50
-- Inactive or out-of state renewal	\$ 200

OTHER STATES

There are five other states which allow non-dentists to provide removable denture care to patients. These states are Arizona, Colorado, Idaho, Maine, and Oregon. Each state has differing licensure requirements, services allowed, and governing bodies. For example, the state of Idaho is the only other state which has a separate Board of Denturitry. All other states established control with their existing dental board. Some states have advisory boards which can provide input on decisions dealing with denturitry.

Education and internship criteria also vary between states. Differences are explained by differing roles of the denturist. In Idaho, Oregon, and Montana the denturist is allowed to have an independent practice. Other states require the denturist to work under direct supervision of a dentist. The various degrees of practice are reflected in different licensing requirements. The following two tables summarize various requirements for other states and for Montana.

OTHER STATES DENTURITRY PROVISIONS

	<u>Arizona</u>	<u>Colorado</u>	<u>Idaho</u>	<u>Maine</u>	<u>Oregon</u>	<u>Montana</u>
Year Enacted	1978	1979	1982	1977	1978	1984
Dentist Supervision	Yes	Yes	No	Yes	No	No
Regulatory Board	Dental	Dental	Denturist	Dental	Dental	Denturist
Services Allowed*	C/P	C	C **	C	C	C/P
Number of Licensees	27	0 ***	29	0	118	18

* C=complete dentures; C/P= complete and partial dentures

** Also allows repairs on partial dentures.

*** Colorado does not require dental auxiliaries (denturists) to be licensed.

Source: Compiled by the Office of Legislative Auditor

Illustration #1

OTHER STATES REQUIRED LICENSURE CRITERIA

<u>Arizona</u>	a) High school graduate
	b) Hold diploma from denture technology school accredited by Dental Examining Board
	c) Pass examination
<u>Colorado</u>	No licensing or certifying requirements
<u>Idaho</u>	a) Two years of training at educational institution
	b) Two years of internship under licensed denturist or dentist
	c) Pass examination
<u>Maine</u>	a) Two years of training in denture technology program approved by the Dental Board
	b) Pass examination
<u>Montana</u>	a) Two years of formal training in denture technology programs approved by national or regional accrediting agency recognized by the Montana Board of Regents
	b) Two years internship under a licensed denturist or three years experience as a licensed denturist in another state or Canada.
	c) Pass examination
<u>Oregon</u>	a) Completion of a training course approved by the Dental Board
	b) Two years experience in the field of denturistry
	c) Pass examination

Source: Compiled by the Office of Legislative Auditor

Illustration #2

An other area which was compared was fees charged for licensure. The chart below demonstrates how Montana fees relate to those in other states. (Colorado is not included because there is no licensure and therefore no fees are charged.) Differences in requirements and independence of denturists is illustrated in the wide range of fees charged.

<u>OTHER STATES DENTURIST LICENSING FEES</u>					
<u>TYPE OF FEE</u>	<u>Arizona</u>	<u>Idaho</u>	<u>Maine</u>	<u>Oregon</u>	<u>Montana</u>
Examination	\$ 125	\$ 200	\$ 25	\$ 250	\$ 200
Original License	0	200	0	250	200
Renewal License	50	200	5	250	500

Source: Compiled by the Office of Legislative Auditor
Illustration #3

BOARD OF DENTISTRY

During this audit, we compared Board of Denturitry functions and role with those of the Board of Dentistry. This allowed any duplication of effort to be noted between the two boards.

Dentistry is a profession involved with prevention, diagnosis, and treatment of oral diseases and disorders with primary emphasis on health of the teeth. Several occupations are involved in this profession; dentists, dental hygienists, and dental assistants.

All of these providers are monitored by the Board of Dentistry. The Board is comprised of seven members; including five dentists, one dental hygienist, and one public member. The Board of Dentistry can establish and enforce rules for licensure; conduct hearings for revocation; deny or suspend a license; and proctor examinations.

The relationship between the two Boards was reviewed through board meeting minutes, interviews, and examination of files. This review found little interaction has taken place between the Boards since the Board of Denturitry was created. There have been referrals of complaints between the Boards and the exchange of application

procedures for X-ray examinations. Even though both Boards regulate dental care, there is no evidence of duplication between these Boards.

CHAPTER III

ACTUAL BOARD OPERATIONS

The primary function of the Board of Denturistry is to ensure the health and safety of the public through the licensing process. This process includes several steps: approving applicants for examinations, authorizing examinations, establishing fees, resolving complaints, and ensuring facility inspections are performed. To determine adequacy of the Board's procedures and to ensure compliance with applicable laws, we tested each of these areas.

APPLICATION PROCEDURES

To apply for licensure in the state of Montana, an applicant must complete a form which is available from the Department of Commerce. This form requires background information such as denturistry school attended, employer with which denturistry experience was gained, other state licenses currently held, and if a denturist license has ever been denied. Along with this form an applicant must also submit all other documents necessary to establish all requirements have been met. The requirements of education and internship can be substantiated by school transcripts and letters of reference.

We examined files for each person who applied for licensure since the creation of the Board. Qualifications documented in files were compared to requirements in the law to test compliance. We found 31 individuals have applied to the Board for licensure and 18 of these have been licensed. Documentation in department files indicate five of 18 do not meet all required criteria.

Non-compliance exists in two areas. The requirement of two years of internship under a licensed denturist has not been met by four of the six licensees who were not initially licensed. Four licensees also have not met the education requirement of two years of formal training. (Three licensees did not meet both of the requirements.)

Conclusion

Some applicants not meeting all qualifications have been licensed. Therefore, the Board has not followed the statutory requirements related to licensure qualifications.

In addition, 30 denturists were not licensed before October 1, 1986, as required by Chapter 548. Only 18 have been licensed. Therefore, the Legislative Audit Committee is required to introduce a bill to merge this Board with the Board of Dentistry.

With only four states having licensing provisions, applicants have been limited in their opportunities for internship. Idaho has expanded the internship requirement to allow gaining experience under a licensed dentist or denturist.

Non-compliance with the education requirement resulted from Board decisions during the licensing process. Applicants were unable to meet the requirements due to the lack of any training programs offered throughout the United States. Currently, two year programs for this profession are only available in Canada. Interviews with board administrative staff in other states revealed several training programs are currently being developed.

EXAMINATION PROCEDURES

The denturist examination in Montana is comprised of three parts; a written section, a practical section, and an oral section. Each part is given separately and the examination is given over the course of two days. As stated in the law, examinations must be held on the second Monday in July. Additional examinations can be held. Files at the department revealed examinations did not take place on the designated date. Examinations were given at varied times and at various locations, often to accommodate an applicant. This does not appear to be an efficient practice.

Conclusion

The past examination process was not in compliance with the law and has not provided efficient licensing procedures for denturist within the state.

To address these inconsistencies, the Board has adopted new rules that set dates and a location for the examinations in the future. These rules require examinations be held on the third Friday and Saturday of January of each year, in addition to the second Monday in July. The rules also set the permanent location of the examination site in Helena.

ESTABLISHING FEES

Board duties include the setting or modifying of fees for licensure. Under this authority, the Board has changed the amount charged for the annual renewal fee and established a charge for inactive and out-of-state licensees. The renewal fee, originally set at \$200, is currently set at \$500. The Board of Dentistry voted to change this fee at a meeting held in July, 1985. At this time, correspondence to applicants and licensees outlined this as the new level required. The new fee of \$500 was then applied to licensees applying for renewal at the end of 1985. Administrative rules outlining the change in fees were not certified by the Secretary of State until September, 1986 and were not in effect until October, 1986. As a result, higher fees were being charged before rule approval was obtained.

The same procedures were followed for the enforcement of the inactive and out-of-state fees. Correspondence was sent and fees charged that had not been included in the rules.

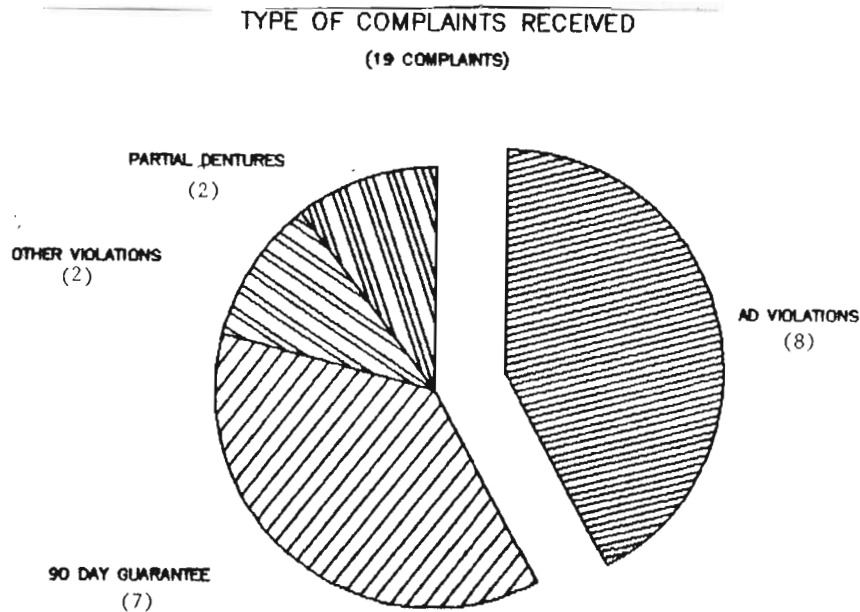
Conclusion

The change in fees could have been challenged by those being charged. There was non-compliance with the rules because new fees were being charged and received before rule changes were adopted.

COMPLAINT PROCEDURES

In two years of operation, the Board of Dentistry has received 19 complaints. These complaints have originated from several areas; eight were filed by dentists, five from denturists, five from the public and one was filed by the Board of Dentistry. Board action has

depended on the type and circumstances of each. The following chart demonstrates the types and numbers of complaints received.



Source: Compiled by The Office of Legislative Auditor

Illustration #4

The advertising complaints are those dealing with misleading advertising (for example, denturists advertising as dentists). Several of these complaints stem from telephone book listings which listed the professions under the wrong heading. Other types of complaints relate to a 90-day guarantee specified in the law, which states all denturist services are unconditionally guaranteed for 90 days. The Board of Denturistry has enforced this requirement and required refunds in these cases.

Partial denture complaints have resulted from differing interpretations of this law between dentists and denturists, as to when and if patients must be referred to a dentist. (Further discussion on this subject is in Chapter Four.) Complaints in this area have been resolved by requiring a refund.

Other complaints received have been against the Board of Denturistry and its members for possible violation of the open meeting law and invasion of privacy. Both complaints were resolved through Board actions.

Conclusion

After reviewing the actions taken and timeliness in resolving these complaints, we determined the Board's procedures are adequate. The majority of complaints are resolved within one to two months. The longest time taken to close any case has been nine months, because of pending court decisions. Disciplinary actions included requiring refunds of money, enforcing the 90-day guarantee, and preventing fraudulent advertising. Follow-up on these cases has been performed promptly by department staff.

INSPECTIONS

In order to ensure public health, the Board of Dentistry has required that a dentist's facilities be inspected by a designated inspector. Inspections are done to determine the sanitary conditions of the facility and if standards outlined in the law are met. Standards required include three separate rooms, availability of a sterilization unit and cold disinfectant, use of germicidal soap, adequacy of records for each patient, denture materials meeting American Dental Association standards, and properly identified dentures.

Conclusion

Inspections have been performed by department staff at every licensed dentist facility throughout the state. Forms used by the investigator are signed by the dentist or office staff and the investigator. Problems which are identified are reported to the applicable licensee and follow-up visits are performed.

CHAPTER IV

AREAS FOR LEGISLATIVE CONSIDERATION

This chapter defines the options available to the state for regulating denturists. It also addresses problem areas which have been identified by our review and which may require legislative consideration.

FISCAL VIABILITY

To determine the fiscal viability of the Board of Denturistry as required in Chapter 548, we reviewed historical data on Board revenues and expenditures. The Board is financed from an account in the earmarked revenue fund. Expenditures include department expenses and board member expenses. Department expenses consist of staff salaries, legal services, materials, and telephone costs. Board members receive \$50 per day compensation when conducting board business and are reimbursed for travel expenses. Board members who are denturists are required by law to be reimbursed for expenses only, with no daily compensation.

For fiscal year 1985-86, we found the Board was appropriated \$5,464 but actual expenditures were \$5,899. The cause of the over-expenditure of appropriation was the cost of legal fees that were required to resolve issues that arose the first year. At that time, boards requiring Department of Commerce legal services were charged approximately \$ 39 an hour for services. To eliminate this problem and to encourage the boards to utilize legal services, department personnel changed this fee system. Legal services are now set at an annual rate rather than an hourly fee.

Conclusion

Presuming no unforeseen costs, fiscal viability for fiscal years 1986-87 and 1987-88 appears to be adequate and thus meets the requirements in the law. Based on the number of licensees and the fees charged, revenue generated appears adequate for operation of the Board while expenditures will be decreasing. It appears licensing fees

are commensurate with board costs. The following information outlines projections for the next fiscal year.

PROJECTED REVENUES AND EXPENDITURES

Fiscal Year 1986-87:

BEGINNING FUND BALANCE		\$ 2,639
Projected Revenues		
Application/Original license	\$ 2,000	
Renewal Fees	<u>5,500</u>	
Total Projected Revenue		7,500
Projected Expenses:		
Department Overhead Costs	\$ 5,289	
Board Expenses*	<u>1,998</u>	
Total Projected Expenses		<u>(7,289)</u>
ENDING FUND BALANCE		\$ 2,850

* Includes travel expenses for all board members for two meetings, even though current denturist members do not ask for reimbursement.

Source: Compiled by the Office of Legislative Auditor

Illustration #5

Figures available at the Department of Commerce project revenues for fiscal years 1987-88 and 1988-89 as \$ 7,000 each year. This along with appropriations comparable to amounts received in the past two years, indicates Board operations will be adequately funded in the future.

OTHER AREAS FOR LEGISLATIVE CONSIDERATION

Our review identified two statutory provisions which are being interpreted differently by the denturistry and dentistry professions. These areas deal with denturists making partial dentures and taking X-rays. The following information outlines the concerns in each area.

Partial Dentures

Section 37-29-403, MCA, establishes the procedure for making and fitting a partial denture. It requires that prior to making and fitting

the partial, the denturist shall formulate a study model of the intended denture and refer the patient to a dentist for tooth cleaning, mouth preparation, and X-rays, as needed. After the dentist has completed his work, the denturist can make the partial denture. We interviewed members from both professions to determine how this section was implemented. We found a wide discrepancy between the two interpretations.

Denturists interviewed stated partial dentures were frequently made with no referral to a dentist. This was allowed based on the phrase "as needed" which was determined to mean the decision of referral is up to the denturist. Therefore, if the denturist did not identify a need for those services which are to be completed by a dentist, such as mouth preparation, or X-rays, then no referral was made.

On the other hand, dentists and their staff stated no partial dentures should be made without a referral to a dentist. They view the intent of the law to require referrals for all patients receiving partial dentures. This directly contradicts the position of the denturists.

The Board of Denturistry has not specifically addressed this problem. At one point, an Attorney General's opinion was to be sought to clarify the law, but at a later meeting this decision was rescinded. Our staff legal counsel interprets the law as requiring referral to a dentist before any partial denture is made. If this is the case, denturists are in non-compliance with the law and the Board is not taking appropriate action to address this problem.

X-Ray Examinations

State laws applicable to X-rays used in dentistry and denturistry require a licensing examination for denturists which has been approved by the Board of Dentistry. We found an examination has been developed for denturists by the Board of Dentistry and several members of the Board of Denturistry have been sent information on the application procedures for this examination. This examination will be administered by Board of Dentistry staff. The Board of Dentistry has

voted to accept the National board exam for dentists to satisfy X-ray qualification requirements. In addition, dental hygienists also use their own Regional board examination with approval of the Board of Dentistry. Consequently, there are three different examinations given within dental occupations for taking X-rays. The denturists' examination is the only test actually administered by Board of Dentistry staff.

Board of Denturitry members indicated different levels of knowledge are tested on each of these examinations. No denturist has requested to take the designated X-ray examination. Denturists indicated they would like to change the separate examination requirement.

During our audit, we noted the licensing examination for denturists has questions addressing radiology and requires applicants to evaluate X-rays. Interviews with members of the Board of Dentistry indicate these questions have not been reviewed by their board. As a result, denturists are required to be tested in this area twice. This issue needs to be addressed by the two Boards or further addressed by the legislature to avoid any further conflict or future non-compliance.

LEGISLATIVE AUDIT COMMITTEE ACTION

Chapter 548, Laws of 1985, requires the Legislative Audit Committee to propose the merger of the Board of Denturitry with the Board of Dentistry because there were not 30 licensees by October 1, 1986. In addition, the Legislative Audit Committee can introduce a bill based on the Sunset provisions which provide for continuing, modifying, or terminating the Board of Denturitry.